

## **9 FAM Appendix G, 500 SECURITY ADVISORY OPINIONS**

*(TL:VISA-400; 04-24-2002)*

### **9 FAM 501 GENERAL GUIDANCE**

*(TL:VISA-400; 04-24-2002)*

a. Security advisory opinion (SAO) requests are mandatory for the categories of visa applicants described in 9 FAM Appendix G, 502, and discretionary for the types of cases discussed in 9 FAM Appendix G, 503. There is no alternative to submitting an SAO request when one is required. Consular posts should submit security advisory opinion requests telegraphically in the "VISAS DONKEY" or "VISAS DONKEY MANTIS" format for nonofficial applicants, and in the "VISAS BEAR" format for official visitors. A check of the applicant's name through CLASS must be conducted prior to requesting a security advisory opinion. Washington agency name checks are conducted on every case submitted for a security advisory opinion.

b. Once an SAO request is submitted, no visa may be issued or denied prior to receiving the Department's reply. When the Department renders an opinion that an alien is excludable under a security ground of ineligibility, that finding remains in effect until it is modified by the Department. If a consular officer believes that action contrary to the Department's advisory opinion should be taken, the case must be resubmitted to the Department with an explanation of the proposed action. In 22 CFR SEC. 41.121(d), "...Rulings of the Department concerning an interpretation of law, as distinguished from an application of the law to the facts, shall be binding upon consular officers".

c. If the Department maintains a VISTA file on an applicant who is the subject of a security advisory opinion request, and if the consular officer knows the number of such file, the VICTARS/VISTA number should be referenced on all correspondence to the Department. This procedure will greatly facilitate locating the relevant information on the subject and acting upon it.

### **9 FAM 502 CASES REQUIRING SECURITY ADVISORY OPINIONS**

*(TL:VISA-272; 05-09-2001)*

The Department's security advisory opinion is required in the case of any applicant, 16 years of age or older, who is described in one of the categories listed below.

## **9 FAM 502.1 Individually Required by the Department**

*(TL:VISA-400; 04-24-2002)*

Security advisory opinions must be submitted for the following individuals:

(1) An applicant who is listed in CLASS as a "DPT-00" entry (except when the "VISAS PEGASUS" name check procedure applies see 9 FAM Appendix G, 413);

(2) An applicant on whom an unfavorable security advisory opinion was previously rendered by the Department which has not been reversed; and

(3) An applicant who is the subject of a general or specific instruction from the Department requiring a security advisory opinion.

## **9 FAM 502.2 Nationals of Certain Countries**

*(TL:VISA-400; 04-24-2002)*

A security advisory opinion is required for all nationals, or specified categories of nationals, of designated countries which are not recognized by the U.S., with which the U.S. has no diplomatic relations, or on which the Department has imposed an SAO requirement for political, security, or foreign policy reasons. Cases are subject to this requirement only when indicated in the "Special Clearance and Issuance Procedures" for the applicant's country of nationality. *The following countries currently have special clearance requirements:*

*Afghanistan*

*Iraq*

*Rwanda*

*Angola*

*Kazakhstan*

*Sierra Leone*

*Armenia*

*Kyrgyzstan*

*Somalia*

*Bosnia*

*Laos*

*Sudan*

*Burma*

*Liberia*

*Syria*

*Central African Republic*

*Libya*

*Tajikistan*

*China, People's Republic of*

*Moldova*

*Turkmenistan*

*Cuba*

*Mongolia*

*Ukraine*

*Georgia*

*North Korea*

*Uzbekistan*

*Haiti*

*Pakistan*

*Vietnam*

*Iran*

*Russia*

*Yugoslavia, Federal  
Republic of*

## **9 FAM 502.3 Possible Ineligibility under Certain Security Grounds**

*(TL:VISA-272; 05-09-2001)*

A security advisory opinion is required for any applicant who the consular officer knows, or has reason to believe, is ineligible, or who was previously found ineligible, for a visa under one of the following security grounds.

(1) All applicants who may be subject to INA 212(a)(3)(A) for activities related to espionage, sabotage, the prohibited export of sensitive technology, other illegal activities, or efforts to overthrow the U.S. Government. [See 9 FAM 40.32]

(2) All applicants who may be subject to INA 212(a)(3)(B) for engaging, or planning to engage, in terrorist activities, including aliens who are officers, officials, representatives, or spokesmen of the Palestine Liberation Organization who are legislatively deemed to be engaged in terrorist activity. **(NOTE:** Consular officers should use the "VISAS VIPER" procedure to report to the Department any alien who is not a visa applicant, but whose activities may fall within the purview of INA 212(a)(3)(B)). [See 9 FAM 40.32.];

(3) All applicants who may be ineligible under INA 212(a)(3)(C) for foreign policy reasons [See 9 FAM 40.33]; and

(4) All applicants who are possibly excludable under INA 212(a)(3)(E) for having engaged in Nazi persecution or genocide [See 9 FAM 40.35(a)].

## **9 FAM 502.4 Seeking Relief from INA 212(a)(3)(D) Ineligibility**

*(TL:VISA-272; 05-09-2001)*

A security advisory opinion is required for any immigrant visa applicant who may be excludable under INA 212(a)(3)(D) for Communist Party membership or affiliation [See 9 FAM 40.34], who is seeking relief from this ineligibility on the basis of past membership or non-meaningful or non-voluntary association, and whose case meets the criteria described in 9 FAM 40.34 N4.4 and N7.1.

Consular officers must request a security advisory opinion whenever they wish to recommend the reversal of a previous finding of ineligibility on security grounds. A full justification for the request must be provided.

### **9 FAM 502.5 Request to Delete "DPT-00" CLASS Entry**

*(TL:VISA-272; 05-09-2001)*

Posts must seek the Department's security advisory opinion whenever they believe that a "00" CLASS entry made by the Department should be deleted. Such SAO requests should cite the complete CLASS entry (including notations in the "free field") and must contain the post's justification for its recommendation.

### **9 FAM 502.6 Aliens on the Economic Defense List**

*(TL:VISA-272; 05-09-2001)*

An applicant who the consular officer knows or has reason to believe is on the Economic Defense List (EDL), or who is an owner or responsible executive of a company which is on the EDL, requires a security advisory opinion. The EDL is a compilation of individuals and firms against whom may exist sanctions denying them United States export privileges. This document is published annually by the Department of Commerce and should be available through the post's commercial officer.

### **9 FAM 502.7 Certain Employees of U.S. Government Personnel**

*(TL:VISA-272; 05-09-2001)*

Any national of a Communist or Communist-controlled country who is employed as a domestic or other worker by a U.S. Government employee, and who is being sponsored for a visa by his USG employer, requires a security advisory opinion prior to visa issuance.

## **9 FAM 503 SECURITY ADVISORY OPINIONS REQUESTED AT CONSULAR OFFICERS' DISCRETION**

*(TL:VISA-272; 05-09-2001)*

Consular officers are encouraged to submit security advisory opinion requests at their discretion whenever the circumstances of an individual case raise concerns about the applicant's possible ineligibility under a security ground, even though the concerns do not meet the "reason to believe" standard for which an SAO is mandatory. The following are a few of many possible examples of cases which would appropriately trigger discretionary SAO requests:

(1) A businessman who is coming to purchase equipment relating to a scientific or technical field that is on the Technology Alert List;

(2) An alien whose close association with a terrorist organization (not in itself a ground of ineligibility) and pattern of travel or other behavior suggest possible involvement in terrorist activity, despite no direct evidence thereof; and

(3) A scientist from a country with which the U.S. does not share sensitive information who wishes to study at a facility engaged in nuclear research.

## **9 FAM 504 NONOFFICIAL TRAVEL: "VISAS DONKEY" AND "VISAS DONKEY COMEXMANTIS" SECURITY ADVISORY OPINION REQUESTS**

*(TL:VISA-400; 04-24-2002)*

a. Security advisory opinion requests for nonofficial applicants must be submitted by means of a "VISAS DONKEY" or "VISAS DONKEY MANTIS" telegram. They should be slugged for CA/VO/L/C and must include "DIRFBI WASHDC" as an action addressee. Those submitted on PLO officials must also be addressed to NEA and include "KPAL" and "PLO" on the TAGS line of the cable. Consular officers should ensure that security advisory opinion requests are prepared in accordance with the telegraphic formats shown in 9 FAM Appendix E, 302, and that they contain complete and accurate information. Once a "VISAS DONKEY" or "VISAS DONKEY MANTIS" SAO request has been submitted, no visa may be issued until the Department's response is received.

b. SAO requests should include the applicant's name (including aliases and/or alternate spellings), nationality, date and place of birth, visa classification, date of last visa issuance (if any), a complete citation of any CLASS entry (including notations in the "free field"), and a comprehensive discussion of any derogatory information available. Posts should further provide information regarding the purpose of the applicant's proposed visit (including the names, addresses, and telephone numbers of U.S. contacts), as well as the applicant's planned itinerary.

### **9 FAM 504.1 "VISAS DONKEY" Security Advisory Opinions**

*(TL:VISA-400; 04-24-2002)*

A "VISAS DONKEY" telegram must be submitted to request a security advisory opinion on all applicants coming for nonofficial purposes who are described in 9 FAM Appendix G, 502 and in 9 FAM Appendix G, 503, other than cases involving possible illegal technology transfer which require the code indicator "VISAS DONKEY MANTIS".

## **9 FAM 504.2 "VISAS DONKEY COMEXMANTIS" Security Advisory Opinions**

*(TL:VISA-400; 04-24-2002)*

The code word "MANTIS" must be used in conjunction with "VISAS DONKEY" whenever a consular officer suspects that an applicant may engage in the illegal transfer of sensitive technology, thereby possibly falling within the purview of INA 212(a)(3)(A)(i)(II). This code indicator triggers an interagency review of the case by the interdepartmental Committee on Exchanges. Consular officers should consult the Technology Alert List for assistance in determining which scientific and technical fields are of particular interest to agencies responsible for technology transfer and proliferation issues.

## **9 FAM 504.3 Official Travel: "VISAS BEAR" Security Advisory Opinion Procedures**

*(TL:VISA-272; 05-09-2001)*

a. Security advisory opinions on applicants who are coming for official purposes ("A", "C-3", and "G" nonimmigrants) must be submitted by means of a "VISAS BEAR" telegram, slugged for CA/VO/L/C and including "DIRFBI WASHDC" as an action addressee. SAO requests on "G" visa applicants destined for the United Nations must also be directed to "IO/UNP" and "USUN" as info addressees. The SAO request should be prepared in accordance with the telegraphic format shown in 9 FAM Appendix E, 302 and must contain complete and accurate information. Once a "VISAS BEAR" security advisory opinion has been requested, no visa may be issued until the Department's response has been received.

b. "VISAS BEAR" security advisory opinion requests should include the applicant's name (including aliases and/or alternate spellings), date and place of birth, nationality, title and position, the organization to which destined, visa classification, type of passport, date of last visa issuance (if any), date the application was received, and basic identifying data on any accompanying persons 16 years of age or older. A complete citation of any CLASS entry (including notations in the "free field") must be reported, as must any derogatory information available. Consular posts must also provide a complete itinerary, including port of entry, date of arrival, flight or other travel data, and information on any planned travel while in the United States.

c. "A", "C-3", and "G" visa recipients from certain countries are subject to port of entry restrictions. When applicable, such restrictions are noted in the "Special Clearance and Issuance Procedures" for the applicant's country of nationality.